

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

LLG# 22-028317
LOGS Legal Group LLP
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Mount Laurel, NJ 08054
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Elizabeth L. Wassall, Esq. 023211995
ATTORNEYS FOR WELLS FARGO BANK, N.A.

In Re:

MICHAEL RAMOS AND DAPHNE Y. RAMOS,
DEBTORS

Case No.: 19-17748-MBK

Judge: HONORABLE MICHAEL B.
KAPLAN

Chapter: 13

**RESPONSE TO DEBTORS' MOTION TO RECLASSIFY WELLS FARGO BANK, N.A.'S
PROOF OF CLAIM FROM SECURED TO UNSECURED**

The undersigned, LOGS Legal Group LLP, attorneys for the Secured Creditor, Wells Fargo Bank, N.A., the holder of secured interest in home furnishings, hereby responds in opposition to the Debtors' Motion to Reclassify Wells Fargo Bank, N.A.'s Proof of Claim from Secured to Unsecured, as follows:

1) Secured Creditor filed a Proof of Claim 12-1 in the amount of \$7,173.66 for home furnishing purchased on credit by Debtor(s). The Credit Card Agreement duly executed by Debtor(s) on or about September 3, 2017, attached to Secured Creditor's Proof of Claim, expressly states: "You give us and we will retain a purchase-money security interest in goods purchased under this Agreement".

2) Debtor argues that Secured Creditor must produce a filed financing statement for its claim to be secured, however the absence of a filed financing statement does not affect the enforceability of a creditor's security interest against a debtor where the parties have entered into a security agreement. "A security interest is enforceable against the debtor, that is, it has attached, if either the creditor has possession of the collateral or if the debtor has signed an

adequate security agreement.” Rosner v. Plaza Hotel Associates, Inc., 146 N.J. Super 447, 453 (App. Div. 1977).

3) Perfection merely addresses the rights to collateral among the creditors, not the enforceability of the security interest. *See*, N.J.S.A. 12A9-317 (concerning conflicting security interests and rights of lien creditors). It does not determine whether a security interest has attached to collateral.

WHEREFORE, Wells Fargo Bank, N.A. respectfully requests that the Debtors’ Motion to Reclassify Wells Fargo Bank, N.A.’s Proof of Claim from Secured to Unsecured be denied.

LOGS LEGAL GROUP LLP

Dated: 3-16-2022

By: /s/Elizabeth L. Wassall
Elizabeth L. Wassall, Esq.

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CERTIFICATION OF SERVICE

I, Abbie Dial the undersigned

1. ☐ represent the _____ in the above-captioned matter.

☒ am the secretary/paralegal for Kathleen M. Magoon, Esquire and Elizabeth L. Wassall, Esquire, who represents the Secured Creditor in the above-captioned matter.

☐ am the _____ in the above case and am representing myself.

2. On _____, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below:

Response to Debtors' Motion to Reclassify Wells Fargo Bank, N.A.'s Proof of Claim from Secured to Unsecured.

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Signature

Dated: 3/17/2022

/s/ Abbie Dial
Printed Name

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Law Offices of Roger Chavez 50 Park Place, Suite 1104 Newark, NJ 07102		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)
Michael Ramos and Daphne Y. Ramos 11 Center Street Eatontown, NJ 07724		<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)
		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court*)

* May account for service by fax or other means as authorized by the court through the issuance of an Order Shortening Time.